

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CESARIO VIZCARRA MEDINA,  
Plaintiff,  
v.  
CDCR, *et al.*,  
Defendants.

Case No. 1:22-cv-00764-ADA-EPG (PC)

**ORDER GRANTING IN PART AND  
DENYING IN PART MOTIONS TO  
SUBSTITUTE DOE DEFENDANTS AND  
ADDENDUM TO MOTION TO SUBSTITUTE  
(ECF No. 34, 36)**

Plaintiff Cesario Medina is a state prisoner appearing *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff alleges that ISU officers arrived at his housing unit to interview him regarding a matter related to his criminal case. (ECF No. 1, at 4). During the process of removing him, the officers twisted his arm with force behind his back, which caused a break in his arm that had been surgically repaired and healed. (*Id.*) The case is now proceeding on Plaintiff's Eighth Amendment excessive force claim against Doe ISU Officers 1–3, but only those ISU officers who were directly responsible for breaking Plaintiff's arm. (ECF Nos. 1, 6, 7, & 9).

Before the Court are Plaintiff's Motion to Substitute Doe Defendants (ECF No. 34), in which Plaintiff seeks to substitute ISU Officers Anthony Arisco, F. Munoz, and Sgt. Case, as well as Addendum to Motion to Substitute (ECF No. 36), in which Plaintiff seeks to substitute

1 Anthony Arisco and Joe Luis. The Court also heard from the Plaintiff during November 16, 2023,  
2 telephonic conference.

3 Based on Plaintiff's motions and statements made during the hearing, for the reasons  
4 stated on the record, the Court will grant Plaintiff's motions to substitute Anthony Arisco and Joe  
5 Luis for Doe ISU Officers 1–3.

6 However, the Court will deny Plaintiff's motions as to F. Munoz and Sgt. Case because  
7 there are no pending claims for a failure to protect and they are not the Doe officers identified in  
8 the complaint for excessive force.

9 If Plaintiff wishes to amend his complaint to include additional defendants and violations  
10 under the law as discussed above, he has 60 days to file a motion for leave to amend. Plaintiff is  
11 advised that an amended complaint supersedes the original complaint, *Lacey v. Maricopa County*,  
12 693 F.3d. 896, 907 n.1 (9th Cir. 2012) (en banc), and must be complete in itself without reference  
13 to the prior or superseded pleading, Local Rule 220. Therefore, in an amended complaint, as in an  
14 original complaint, each claim and the involvement of each defendant must be sufficiently  
15 alleged. The amended complaint should be clearly and boldly titled “First Amended Complaint,”  
16 refer to the appropriate case number, and be an original signed under penalty of perjury.

17 If Plaintiff files an amended complaint, the Court will screen that amended complaint in  
18 due course.

19 Based on the foregoing, IT IS ORDERED as follows:

- 20 1. Plaintiff's Motion to Substitute and Addendum to Motion to Substitute (ECF Nos.  
21 34, 36) are granted in part and denied in part.
- 22 2. All references in the complaint to DOE ISU officers shall be substituted with Joe  
23 Luis and Anthony Arisco. This case proceeds on Plaintiff's Eighth Amendment  
24 excessive force claim against Defendant Joe Luis and Anthony Arisco. (ECF Nos.  
25 1, 6, 7, & 9).
- 26 3. The Clerk of Court is directed to terminate Doe ISU Officers 1-2 from the docket  
27 and add Joe Luis and Anthony Arisco.
- 28 4. The Clerk of Court is directed to send Plaintiff a section 1983 civil rights  
complaint form;

5. If Plaintiff wishes to amend his complaint, Plaintiff may file a motion to amend within 60 days from the date of this Order. Should Plaintiff choose to amend his complaint, Plaintiff shall caption the amended complaint "First Amended Complaint" and refer to the case number 1:22-cv-00764-EPG.

IT IS SO ORDERED.

Dated: **November 20, 2023**

/s/ Eric P. Gross  
UNITED STATES MAGISTRATE JUDGE